



216
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13147-2025 (O&M)
Date of Decision: 17.03.2025

Vishal

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Satvir Singh, Advocate, for the petitioner.

Mr.P.S. Bhandari, AAG. Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a second petition filed under Section 483 of BNSS for grant of regular bail to the petitioner in FIR No.76 dated 29.10.2023, under Section 346 IPC (Sections 363, 366-A, 376, 465, 467, 471 IPC, Section 4 POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006 added later on), registered at Police Station Khanauri, District Sangrur.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in custody for 1 year, 3 months and 11 days and it is a case where the allegations against the petitioner were that he enticed away the daughter of the complainant and as per the allegation, she was minor and that is why the provisions of the POCSO Act were invoked. He submitted that the father of the girl has wrongly stated the age of the girl in view of the fact that even a perusal of the FIR would show that he has stated that his



daughter who is the prosecutrix was studying in class 12th and in case a child is studying in class 12th then he or she cannot be of the age of 15 years and in fact the date of birth as so stated by the prosecutrix herself was 30.06.2005 and she was rather major and above the age of 18 years even at the time of occurrence. He submitted that both the petitioner and the girl were major at the time when the occurrence had taken place and therefore, the provisions of POCSO Act were not even sustainable in the present case. He submitted that even otherwise also, all the material witnesses have been examined and the prosecutrix has not supported the prosecution version and therefore, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr.P.S. Bhandari, AAG. Punjab appearing on behalf of the State of Punjab submitted that so far as the custody of the petitioner is concerned, the same is correct. He however submitted that as per the prosecution version, the prosecutrix was a minor but at the same time the prosecutrix has not supported the prosecution version. He also submitted that all the material witnesses have been examined.

4. I have heard the learned counsel for the parties.

5. It is a case where the petitioner has already faced incarceration for 1 year, 3 months and 11 days and as per both the learned counsels for the parties, all the material witnesses have been examined and the prosecutrix did not support the prosecution version. A perusal of the FIR would show that the father of the prosecutrix who is the complainant has so stated that his daughter has studied upto 12th class. In this way, the argument which has been raised by the learned counsel for the petitioner that the girl was of the age of majority has to be considered for the purpose of



considering the grant of regular bail. This Court makes it very clear that this Court is not making any observation on the age of the girl but considering the aforesaid facts and circumstances and only for the purpose of considering the prayer of the petitioner for the grant of regular bail, the aforesaid fact cannot be ignored. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may influence the remaining witnesses or may tamper with evidence or may flee from justice.

6. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

17.03.2025

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking : Yes/No
Whether reportable : Yes/No